



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF  
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VIA EMAIL AND REGULAR MAIL

**MEMORANDUM**

TO: All Parties to D.T.E. 01-31

FROM: Paula Foley, Hearing Officer

RE: AG Motion to Compel; Material Offered as Record Request Responses and for Marking as Exhibits

DATE: December 7, 2001

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On December 6, 2001, the Attorney General filed a Motion to Compel, or, in the Alternative, Motion to Strike Portions of Verizon's Testimony. Due to the upcoming evidentiary hearings scheduled in this case, parties seeking to respond to this motion must do so by **5:00 p.m., Tuesday, December 11, 2001.**

In addition, please be advised of these rules on record requests and exhibits for marking in this case. Most of these are well known, but no harm results from restatement. Record request responses are written substitutes for oral answers where fault of memory or complexity of subject precludes a responsive answer by the witness in the hearing. As such, they are part of the record and the evidence, unless challenged as unresponsive and expunged in whole or part. In this proceeding, all record request responses will be due January 17, 2002. Information request responses are not part of the record and the evidence unless marked and moved.

The proponent of an exhibit must offer the Department seven (7) bench copies of the proposed exhibit. At least one of the seven must be accurately punched to fit a three-ring binder. The copy so punched is for the hearing officer's case record. Where bulk material (i.e.,

more than 25 pages) is offered for marking and such material is already in the possession of all parties (e.g., information request responses), the proponent may be relieved from the duty to provide multiple copies for the bench and parties if the proponent informs the Department and all parties, no later than 9:00 a.m. on the day the material is to be offered for marking, of the intended use of such material. However, the proponent of bulk material offered for marking as an exhibit must provide the hearing officer with an accurate punched copy of the exhibit for the record.

Any exhibit offered in this proceeding must contain an internally consistent and usable form of referencing. While most documents that are offered as exhibits have pre-numbered pages, some offered exhibits (especially those exhibits consisting of excerpts from more than one document or consisting of a compilation of notes) have pages that are not numbered or not consistently numbered.

Documents of three pages or more without a pre-existing referencing system must be marked with consecutive page numbers before the document is offered as an exhibit or before it is otherwise distributed for use in the hearing. Where it is necessary to supply page numbers for an exhibit, the proponent of the exhibit should add the numbers in some way that differentiates the additions from the preexisting text and should identify his method of addition on the record upon presentation for marking. Documents without an acceptable referencing system will not be marked for identification and may not be used at the hearing.

By **5:00 p.m., Wednesday, December 12, 2001**, all parties must identify to the Department and the parties the materials they intend to offer for marking and moving in this case. In this way, parties may prepare to object or prepare to cross-question on the material and will avoid unfair surprise at having large volumes of exhibits entered into the record on the final day of hearings.

Please contact me at (617) 305-3608 with any questions. Thank you.